

**BEFORE THE  
NATURAL RESOURCES COMMISSION  
OF THE  
STATE OF INDIANA**

**IN THE MATTER OF:**

<b>RECODIFICATION OF GRANT PROGRAMS</b>	) )	<b>Administrative Cause No. 10-006T (LSA Document #10-161)</b>
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**RECOMMENDATION FOR FINAL ACTION ON READOPTION OF RULE**

**A. INTRODUCTION**

For consideration is the final adoption of recodification of the rules at 312 IAC 26 which assist the Department of Natural Resources (the “DNR”) with respect to grants. The rule is directed most notably to the Hometown Indiana Grant Program, but this program has not been funded for several years. Legislation for the Hometown Indiana Grant Program still exists, however, so the potential need for standards still exists. Perhaps more importantly, 312 IAC 26 provides a legal foundation for other grants, particularly those that are referenced to the SCORP. Where the rules are readopted in their current form without amendments, the Director of the Division of Hearings is authorized by the Commission to approve preliminary action. The Commission retained authority to take final action on recodifications.

312 IAC 26 provides standards for the referenced grant programs. Principles contained in the SCORP (“SCORP 2000-2004: A New Millennium, A New Tradition”) are given legal force. The SCORP referenced in the existing rule is obsolete and has been replaced by the “Indiana Statewide Outdoor Recreation Plan 2006-2010: Hoosiers Moving Forward”. If the Commission readopts 312 IAC 26 in its current form, an amendment would be offered in the July or September meeting to make the replacement. In addition, several cross-references to statutes need to be updated and would be included with the update to the SCORP reference or through *errata*.

The rules codified under 312 IAC 26 are proposed for readoption without amendment. The Director of the Division of Hearings approved preliminary adoption on January 4, 2010. The standard practice is to readopt rules by article, and 312 IAC 26 is now submitted for consideration as to final adoption.

**B. READOPTION ANALYSIS REQUIRED UNDER IC 4-22-2.5-3.1**

Many standards applicable to grants are set forth in particular Indiana Code citations or in individual appropriates from the Indiana General Assembly or the Federal Government. In other instances, 312 IAC 26 provides specificity not included in the statute. These

apply to grants which may be derived from the Hometown Indiana Grant Program, the Federal Land and Water Conservation Fund, the Recreational Trails Program, and the Wabash River Heritage Corridor Fund.

**The continued need for the rule**

312 IAC 16 assists with grant programs administered through the DNR by providing or referencing objective standards and by causing those standards to have a legal foundation. Most notably, standards are provided for the Hometown Indiana Grant Program established by IC 14-12-3-5. The Indiana General Assembly has not funded this program in recent years, but the standards need to be in place in the event funding is provided. Additionally, the rule directs that the DNR shall consider the SCORP in evaluating a grant application under the Federal Land and Water Conservation Fund, the Recreational Trails Program, and the Wabash River Heritage Corridor Fund

**The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency**

No complaints are known to have been received with respect to the rule.

**The complexity of the rule, including any difficulties encountered by:**

- (A) the agency in administering the rule; or**
- (B) small businesses in complying with the rule**

The rule is not inordinately complex and has been effectively administered by the DNR.

**The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances**

The rule has not been demonstrated to overlap, duplicate, or conflict with other statutes, rules, regulations, or ordinances.

**The length of time since the rule was last reviewed under the section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time**

The rule was last reviewed in 2004. As noted previously, one factor which has changed is that the SCORP has been updated since then. If the Commission approves the present recodification, the cross-reference to the SCORP at the July or September meeting and other technical changes would be initiated this year. Otherwise, the rule is believed to adequately serve its intended purposes.

**C. NOTICE OF INTENT AND RECOMMENDATION FOR FINAL ACTION**

On March 17, 2010, a “Notice of Intent to Readopt” 312 IAC 26 was posted to the *Indiana Register* at 20100317-IR-312100161RNA as anticipated by IC 4-22-2.5-2 and IC 4-22-2.5-4. The notice indicated the intention to readopt the entirety of 312 IAC 26 without changes. The notice also provided that a person had 30 days to submit a written request to the Commission, through the Small Business Regulatory Coordinator, seeking to have a particular section of the rule readopted separately. If such a request had been made, the Commission would have been required to complete the full rule adoption process for the section request to be readopted separately.

In this instance, no written request has been received. The Commission may either submit the rule for filing with the Publisher under IC 4-22-2-35 or elect the procedure for readoption under IC 4-22-2. The recommendation is for the Commission to approve for readoption 312 IAC 26, without amendment as attached in Exhibit “A”, for subsequent filing with the Publisher.

Dated: April 20, 2010

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Stephen L. Lucas  
Hearing Officer

## **Exhibit “A”**

### **ARTICLE 26. GRANT PROGRAMS**

#### **Rule 1. Definitions**

##### **312 IAC 26-1-1 Applicability**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 1. The definitions in this rule apply throughout this article and are supplemental to those set forth in 312 IAC 1. (*Natural Resources Commission; 312 IAC 26-1-1; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

##### **312 IAC 26-1-2 “Acquisition” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 2. “Acquisition” means to obtain fee title or another interest in real property (including development rights or a remainder interest). (*Natural Resources Commission; 312 IAC 26-1-2; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

##### **312 IAC 26-1-3 “Community park” or “recreation area” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 3. “Community park” or “recreation area” means a park or recreation site that primarily provides public recreation for a municipality, township, or county but may also serve a larger area. (*Natural Resources Commission; 312 IAC 26-1-3; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

##### **312 IAC 26-1-4 “Corporation” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 4. “Corporation” means a not-for-profit corporation formed under IC 23-7-1.1 [*IC 23-7-1.1 was repealed by P.L.179-1991, SECTION 34, effective August 1, 1991.*]. (*Natural Resources Commission; 312 IAC 26-1-4; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

##### **312 IAC 26-1-5 “Hometown Indiana Grant Program” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-5; IC 14-12-3-8

Sec. 5. “Hometown Indiana grant program” refers to the grant program established by IC 14-12-3-5. (*Natural Resources Commission; 312 IAC 26-1-5; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

##### **312 IAC 26-1-6 “Municipal corporation” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8; IC 36-1-2-10

Sec. 6. “Municipal corporation” has the meaning set forth in IC 36-1-2-10. (*Natural Resources Commission; 312 IAC 26-1-6; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**312 IAC 26-1-7 “Preservation” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 7. “Preservation” means to apply measures to sustain the existing form, integrity, and material of a building or structure and the existing form and vegetative cover of a site. (*Natural Resources Commission; 312 IAC 26-1-7; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**312 IAC 26-1-8 “Program” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-5; IC 14-12-3-8

Sec. 8. “Program” refers to the hometown Indiana grant program established in IC 14-6-35-7 [*IC 14-6 was repealed by P.L.1-1995, SECTION 91, effective July 1, 1995.*]. (*Natural Resources Commission; 312 IAC 26-1-8; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**312 IAC 26-1-9 “Property” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 9. “Property” means the real estate, or any improvement to the real estate, that is the subject of an application made under this article. (*Natural Resources Commission; 312 IAC 26-1-9; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**312 IAC 26-1-10 “Protection” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 10. (a) “Protection” means to affect the physical condition of a property:  
 (1) by defending or guarding the property from deterioration, loss, or attack; or  
 (2) by covering or shielding the property from danger of injury.  
 (b) With respect to historic buildings and structures, protection is generally temporary and anticipates future historic preservation treatment. With respect to archaeological sites, protection may be temporary or permanent. (*Natural Resources Commission; 312 IAC 26-1-10; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1275; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**312 IAC 26-1-11 “Rehabilitation” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 11. “Rehabilitation” means to return a property to a state of utility through repair or alteration that makes possible an efficient contemporary usage while causing the preservation of those portions or features that are significant to the historical,

architectural, or cultural values of the property. (*Natural Resources Commission; 312 IAC 26-1-11; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1276; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**312 IAC 26-1-12 “Restoration” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 12. “Restoration” means to recover accurately the form and details of a property and its setting as the property appeared during a particular period of time by removing the later work or replacing a missing earlier work. (*Natural Resources Commission; 312 IAC 26-1-12; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1276; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**312 IAC 26-1-13 “SCORP” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 13. “SCORP” means “SCORP 2000-2004: A New Millennium, A New Tradition”. (*Natural Resources Commission; 312 IAC 26-1-13; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1276; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1547; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**312 IAC 26-1-14 “Stabilization” defined**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 14. “Stabilization” means to apply measures to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining its essential present form. (*Natural Resources Commission; 312 IAC 26-1-14; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1276; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**Rule 2. Program Administration**

**312 IAC 26-2-1 Application**

Authority: IC 14-10-2-4; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 1. (a) This rule establishes standards, requirements, and procedures applicable to a grant for a project that is subject to this article.

(b) For a grant under the Hometown Indiana Grant Program, reference must also be made to any of the following:

- (1) 312 IAC 26-3 with respect to a grant for a project involving a community park or recreation area.
  - (2) 312 IAC 26-4 with respect to a grant for a project involving the historic preservation of real property.
  - (3) 312 IAC 26-5 with respect to a grant for a project involving community forestry.
- (*Natural Resources Commission; 312 IAC 26-2-1; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1276; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

**312 IAC 26-2-2 Program administration**

Authority: IC 14-10-2-4; IC 14-12-3-13

Affected: IC 4-21.5; IC 14-12-3-6

Sec. 2. (a) This article is administered by the department.

(b) The commission is the ultimate authority for the department under IC 4-21.5 with respect to this article.

(c) Responsibility for the administration of grant projects for the Hometown Indiana Grant Program is delegated by the commission as provided in 312 IAC 26-3 through 312 IAC 26-5.

(d) Unless the terms of an appropriation provide otherwise, the SCORP shall be considered in developing priorities for the following programs:

(1) For a grant under the Hometown Indiana Grant Program subject to 312 IAC 26-3.

(2) For a grant derived from the Federal Land and Water Conservation Fund (16 U.S.C. 4601-5).

(3) For a grant under the Recreational Trails Program.

(4) For a grant under the Wabash River Heritage Corridor Fund.

*(Natural Resources Commission; 312 IAC 26-2-2; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1276; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-2-3 Project assurances**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 3. (a) An applicant for a grant must provide project proposal assurances as set forth in this section.

(b) A project assurance must include the following:

(1) A definition of abbreviated terms used in the provision assurances.

(2) Assurances that the acquisition, development, and maintenance of projects will be performed under lawful departmental standards. These assurances must set forth:

(A) accommodation for handicapped persons as otherwise provided by law;

(B) conformance with state bidding and contract requirements, including a nondiscrimination clause;

(C) project processing;

(D) record maintenance, including a financial management system;

(E) terms for maintenance of a site after the completion of a project; and

(F) a demonstration the project is compatible with existing site conditions, including sewers and utility facilities.

*(Natural Resources Commission; 312 IAC 26-2-3; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1276; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1548; errata filed Mar 13, 2002, 11:51 a.m.: 25 IR 2521; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-2-4 Project agreements**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 4. (a) An applicant who is selected under this article to receive a grant must enter a project agreement with the department before the applicant is eligible to receive grant reimbursement.

(b) The project agreement must include the following:

(1) The name and address of the applicant.

(2) The project number as designated by the department.

(3) The project title as designated by the department.

- (4) The date the director signed the project agreement; a statement that work begun before this date does not qualify for reimbursement, except as specified in the project agreement.
- (5) The expiration date when work must be completed in order to qualify for reimbursement.
- (6) The scope of the project that is eligible for reimbursement as determined by the commission.
- (7) Project costs that identify the sponsor's share and the grant share provided under the program.
- (8) Terms needed to assure compliance with:
  - (A) the standards and requirements of this article and any other applicable law;
  - (B) project assurances under section 3 of this rule and other promises or representations made in the grant application; and
  - (C) other requirements determined necessary by the department to address items that are unique to the project.
- (9) Standards for the maintenance of temporary construction signs on the property during the effective period of a grant under this article. These signs shall identify the nature and extent of participation in the project by the state.
- (10) Signatures needed to bind the department and the applicant to the terms of the project agreement.

*(Natural Resources Commission; 312 IAC 26-2-4; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1277; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-2-5 Grant distributions**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 5. (a) Unless the terms of an appropriation provide otherwise or would make application of this section impracticable, the standards set forth in this section apply to the distribution of grants under the program.

(b) The percentage of an appropriation allotted to each of the three (3) types of grants is determined by the commission.

(c) The minimum grant application amounts (exclusive of local matches) are as follows:

- (1) Ten thousand dollars (\$10,000) for a community park or recreation area grant under 312 IAC 26-3.
- (2) Four thousand dollars (\$4,000) for a historic preservation grant under 312 IAC 26-4.
- (3) Two thousand five hundred dollars (\$2,500) for a community forestry grant under 312 IAC 26-5.

(d) Ten percent (10%) of any appropriation received to fund this article is allocated to fund programs for applicants who serve a population of less than seven thousand (7,000). A program funded under this subsection is rated in each of the three (3) categories of grants under the criteria established in 312 IAC 26-3-5, 312 IAC 26-4-12, and 312 IAC 26-5-5. An applicant who qualifies under this subsection and does not receive a grant for the full amount of its application can also compete with other applicants of the same type for funding not controlled by this subsection. If the ten percent (10%) allocation described in this subsection is not exhausted, the amount remaining is allocated to fund the balance of applications for that type of grant.

(e) If any of the allotments described in subsection (b) are not exhausted, the amounts remaining are allocated by the commission.

(f) Except as provided in subsection (e), a grant recipient shall not receive in a fiscal year more than ten percent (10%) of the allotment made to the type of grant for which the application was



made. (*Natural Resources Commission; 312 IAC 26-2-5; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1277; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

### **Rule 3. Community Park or Recreation Area Grants**

#### **312 IAC 26-3-1 Administration of community park or recreation area grants**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 1. (a) This rule governs a grant for any project involving a community park or recreation area.

(b) This rule is administered by the division of outdoor recreation of the department. (*Natural Resources Commission; 312 IAC 26-3-1; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1277; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

#### **312 IAC 26-3-2 General eligibility**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 2. To be eligible to receive a grant for a project involving a community park or recreation area, the following conditions must be met:

- (1) The applicant must be a municipal corporation that is authorized to acquire, develop, operate, and maintain a community park or recreation area.
- (2) An applicant who is a park and recreation board must have a current five (5) year park and recreation master plan approved by the department. Any other applicant must have an approved comprehensive plan developed by the applicant (or another municipal corporation within the jurisdiction of the applicant) who meets the same standards as are applicable to a park and recreation board.
- (3) The grant must be used to acquire, develop, or renovate a community park or recreation area.
- (4) A community park or recreation area must be on land that will be owned or controlled by the applicant upon performance of the project.
- (5) A community park or recreation area, purchased with grant funds or donated as a local match for grant funds, must be operated and maintained in perpetuity for public recreation. If grant funds were used to develop or renovate a facility, the facility must be operated and maintained for public recreation for the useful life of the facility as determined by the department.
- (6) The applicant must demonstrate the ability of the municipal corporation to operate and maintain the community park or recreation area after its completion.
- (7) The applicant must satisfy this article.

(*Natural Resources Commission; 312 IAC 26-3-2; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1278; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

#### **312 IAC 26-3-3 Eligibility requirements pertaining to usage for public recreation**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 3. (a) Types of acquisition, development, and renovation that are eligible for assistance under the program (as constituting public recreation) include the following:

- (1) Water-oriented recreation activities.
- (2) Natural and scenic areas.
- (3) Community parks.

- (4) Regional parks.
- (5) Linear parks.
- (6) Interpretative facilities.
- (7) Recreation sites that have historical significance.
- (8) Areas for use at least fifty percent (50%) by the general public and the balance for public school use.
- (9) Recreation sport facilities.
- (10) Related indoor facilities.

As used in this subsection, “interpretative facilities” includes farms, zoos, arboretums, nature centers, and similar facilities.

(b) Types of acquisition, development, and renovation that are not eligible for assistance include the following:

- (1) Land and facilities to meet minimum school requirements.
- (2) Facilities used solely for semiprofessional or professional art or athletics.
- (3) Farmland.
- (4) Sites used for animal refuges or fish production that are not open for public recreation.
- (5) Railroad facilities used in the commercial operation of trains.
- (6) Mobile recreation equipment.
- (7) Amusement or theme parks.
- (8) Convention centers.
- (9) Employee residences.
- (10) Inns.
- (11) Roads and utilities serving ineligible facilities.
- (12) Historic structures.

(c) A site that qualified under subsection (a) is not made ineligible for a grant because a purpose described under subsection (b) is also served as a secondary and incidental result of the development or acquisition. (*Natural Resources Commission; 312 IAC 26-3-3; filed Dec 3, 1997, 3:45 p.m.; 21 IR 1278; readopted filed Nov 17, 2004, 11:00 a.m.; 28 IR 1315*)

### **312 IAC 26-3-4 Grant application for a community park or recreation area**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 4. A municipal corporation that seeks a grant under this rule must complete a written application in a narrative form that includes the following:

- (1) An application completed on a department form.
- (2) A project description that specifies:
  - (A) how the property will be acquired;
  - (B) the type of development proposed;
  - (C) the type of park, for example, neighborhood, community, or block; and
  - (D) the users expected, for example, inner city, weekend, youth, family, or senior citizens.
- (3) A cost breakdown of the amount of the proposed project and assurances that at least fifty percent (50%) of the cost of the proposed project will be satisfied through public or private funds, labor, or property provided by the project sponsor.
- (4) Identification of expenses and donations of property incurred before the date of the application. The responsibility established by this subdivision is a continuing responsibility that requires the applicant to update the following information submitted to the department to include expenses incurred after the date of an application but before the application is approved:

- (A) The name, address, and telephone number of the person performing the work.
- (B) The expenses paid or incurred by the applicant.
- (C) For property donations, evidence of the donor's gift, the date given, and the value of the contribution.
- (5) A description of grant assistance received from a source other than a grant under this article that has been received or is anticipated for use at the property.
- (6) A description of how the project will be adapted for use by handicapped persons.
- (7) A description of how the applicant will remove or otherwise address overhead wires and other environmental intrusions on the property.
- (8) A description of how the applicant provided for public participation on the proposed project. Public participation must include a public meeting that was advertised and conducted for the purpose of considering the proposed project. Where negative comments were received with respect to the proposed project, the application must specify how the subject of those comments was mitigated or why mitigation was impracticable.
- (9) A summary of the natural, historical, archaeological, architectural, cultural, economic, community development, or other significance of the site. The archaeological review process must comply with 312 IAC 21 and 312 IAC 22.
- (10) An environmental assessment checklist.
- (11) An analysis of each item set forth in section 5 of this rule with respect to the ratings of applications.
- (12) An authenticated copy of a resolution by the applicant that authorizes the filing of the application and designates an individual to act on behalf of the applicant relative to the application.
- (13) Maps that identify the following:
  - (A) The location and exterior boundaries of the property.
  - (B) All:
    - (i) leases;
    - (ii) permanent or temporary easements for access;
    - (iii) streets;
    - (iv) utility rights-of-way;
    - (v) scenic preservation easements; or
    - (vi) other encumbrances on the property.

Documentation to evidence the encumbrance should also be included.

- (C) Any area to be acquired or developed. A development project must be properly labeled, color coded, or keyed to a legend. A deed, lease, or contract to evidence the acquisition or development should also be included, as well as any escrow agreement.
- (14) Photographs of existing buildings, recreational facilities, and natural site features.
- (15) A preliminary design and floor plan for each building, shelter, and other structure. The plan must be drawn to scale and show how the facility will be constructed to accommodate handicapped persons.
- (16) A copy of any deed, lease, or easement for the parcels to be acquired or developed.
- (17) A copy of any construction permit required by a governmental agency to implement the plans.

*(Natural Resources Commission; 312 IAC 26-3-4; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1278; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1548; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-3-5 Ratings of applications**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8; IC 36-10-3; IC 36-10-4

Sec. 5. (a) An application for a grant made under this rule is evaluated according to ratings established by this section using the SCORP.

(b) The project application ratings criteria set forth in this subsection apply. The rating given to each project is determined by the extent to which the project accomplishes the purposes set forth in these criteria. A project receives a higher rating to the extent the project would as follows:

- (1) Protect the state's natural heritage and important cultural and historic resources.
- (2) Provide or expand interpretive facilities that develop greater awareness and appreciation of Indiana's natural and cultural resources, the environment, and their proper use and management.
- (3) Expand recreational opportunities by more effective and efficient use of existing resources.
- (4) Provide more land for public recreation or natural resource conservation.
- (5) Prevent the loss of land to nonrecreational conservation use if funds are not obtained.
- (6) Acquire wetlands.
- (7) Enhance resources such as fish and wildlife habitat and plant communities.
- (8) Enhance direct access to the state's lake and nonintermittent streams.
- (9) Provide trail opportunities.
- (10) Improve and expand cooperation, coordination, and planning within and between governmental entities and the private sector.
- (11) Meet local recreation needs as described in a park and recreation master plan.
- (12) Add diversity of local recreation opportunities.
- (13) Project energy saving alternatives.
- (14) If competing applications otherwise rate equally under this subsection, and if the last available funding is at issue, provide assistance to the applicant who has previously received the lower (or lowest) per capita assistance under this rule.

(c) The assignment of funds to applicants will be made as far as funds are available in order of highest to lowest rank under the ratings criteria. (*Natural Resources Commission; 312 IAC 26-3-5; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1279; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

#### **Rule 4. Historic Preservation Grants**

##### **312 IAC 26-4-1 Administration of historic preservation grants**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 1. (a) This rule governs a grant for any project involving the historic preservation of real property.

(b) This rule is administered by the division of historic preservation and archeology of the department. (*Natural Resources Commission; 312 IAC 26-4-1; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1280; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

##### **312 IAC 26-4-2 General eligibility requirements**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 2. To be eligible to receive a grant for a project involving the historic preservation of real property, the following conditions must be met:

- (1) The applicant must be a municipal corporation or a corporation that has no affiliation with religion.
- (2) The property must be listed in the Indiana State Register of Historic Sites and Structures.

- (3) The project must meet the professional standards in architecture, history, and archaeology established in section 4 of this rule.
- (4) The project must provide for the acquisition, protection, stabilization, preservation, rehabilitation, restoration, or archaeological investigation of the property.
- (5) The applicant must demonstrate that there are adequate provisions, including sufficient identified sources of funds, to ensure that the property will be adequately operated and maintained.
- (6) A portion of the facilities on the property to be maintained must be open to the public or maintained for public benefit.
- (7) The property must be owned or controlled by the applicant upon performance of the project.
- (8) The applicant must satisfy this article.

*(Natural Resources Commission; 312 IAC 26-4-2; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1280; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-4-3 Projects ineligible for grants**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 3. (a) A project that might otherwise meet the general eligibility requirements under section 2 of this rule is ineligible under this article for a grant if listed under subsection (b).

(b) A project is ineligible that proposes to use funds to:

- (1) construct new buildings or facilities;
- (2) reconstruct historic structures no longer extant;
- (3) provide or install landscape elements not historically documented;
- (4) purchase or conserve furnishings or historic artifacts; or
- (5) do a project on real estate owned by the state or the federal government.

*(Natural Resources Commission; 312 IAC 26-4-3; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1280; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-4-4 General professional standards for historic preservation projects**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8; IC 14-21-1

Sec. 4. The following standards apply to any project under this rule:

- (1) A reasonable effort must be made by the applicant to provide a compatible use for a property that requires minimal alteration of the building structure or site and its environment or to use a property for the purpose originally intended.
- (2) The distinguishing original quality or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided if possible.
- (3) A building, structure, or site is a product of its own time. To the extent feasible, an alteration should demonstrate a historical basis that is appropriate to that time.
- (4) A change that takes place in the course of time evidences the history and development of a building, structure, or site and its environment. The change may have acquired significance in itself, and this significance shall be recognized and respected.
- (5) A distinctive stylistic feature or example of skilled craftsmanship that characterizes a building, structure, or site shall be treated with sensitivity.
- (6) A deteriorated architectural feature shall be repaired, if practicable, rather than replaced. If replacement is necessary, any new material should match what is being replaced with respect to composition, design, color, texture, and other visual qualities.

The repair or replacement of a missing architectural feature shall duplicate a feature as substantiated by historical, physical, or pictorial evidence, rather than as determined from a conjectural design or the availability of a different architectural element from another building or structure.

(7) Cleaning the surface of a structure shall be performed with the gentlest means possible. Sandblasting or another cleaning method that will damage the historic building material shall not be used.

(8) Every reasonable effort shall be made to protect and preserve archaeological resources that may be affected by a project.

*(Natural Resources Commission; 312 IAC 26-4-4; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1280; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-4-5 Professional standards for historic preservation projects involving acquisitions**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8; IC 14-21-1

Sec. 5. The following standards apply if a project under this rule involves land acquisition:

(1) Careful consideration shall be given to the type and extent of property rights that are required to assure the preservation of the historic resource. The preservation objective shall determine the exact property rights to be acquired.

(2) A property shall be acquired in fee simple when absolute ownership is required to ensure its preservation.

(3) Every reasonable effort shall be made to acquire sufficient property with the historic resource to protect its historical, archaeological, architectural, or cultural significance.

*(Natural Resources Commission; 312 IAC 26-4-5; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1281; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1549; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-4-6 Professional standards for historic preservation projects involving protection**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8; IC 14-21-1

Sec. 6. The following standards apply if a project under this rule involves the protection of a property:

(1) An analysis of the actual or anticipated threat to the property must be made before applying a protection measure that is generally temporary and implies future historic preservation work.

(2) The protection shall safeguard the physical condition or environment of a property from further deterioration or damage caused by animal, human, or natural intrusions (including those related to the weather).

(3) A historical or architectural feature that is removed shall be properly recorded, and, if practicable, stored for future study and use.

*(Natural Resources Commission; 312 IAC 26-4-6; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1281; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-4-7 Professional standards for historic preservation projects involving stabilization**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8; IC 14-21-1

Sec. 7. The following standards apply if a project under this rule involves stabilization:

(1) The structural stability of a property shall be reestablished through:

(A) the reinforcement of load bearing members or by arresting material deterioration leading to structural failure; and

(B) the return of weather-resistant conditions on the property.

(2) Stabilization shall be accomplished with as little detraction as possible from the appearance of the property. Reinforcement facilities shall be designed and placed, if practicable, so as not to intrude upon or detract from the aesthetic and historical quality of the property.

*(Natural Resources Commission; 312 IAC 26-4-7; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1281; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

**312 IAC 26-4-8 Professional standards for historic preservation projects involving preservation**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8; IC 14-21-1

Sec. 8. The following standards apply if a project under this rule involves preservation:

(1) Preservation shall maintain the existing form, integrity, and materials of a building, structure, or site. Substantial reconstruction or restoration of lost features generally is not included in a preservation undertaking.

(2) Preservation shall include techniques of arresting or retarding the deterioration of a property through a program of continuing maintenance.

*(Natural Resources Commission; 312 IAC 26-4-8; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1281; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

**312 IAC 26-4-9 Professional standards for historic preservation projects involving rehabilitation**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8; IC 14-21-1

Sec. 9. The following standards apply if a project under this rule involves rehabilitation:

(1) A contemporary design for an alteration or addition to a property is acceptable unless the alteration or addition would:

(A) destroy significant historic, architectural, or cultural material; or

(B) be incompatible with the size, scale, color, material, or character of the property, neighborhood, or environment.

(2) An alteration or addition to a structure shall be done, if practicable, so that the essential form and integrity of the structure would be unimpaired if the alteration or addition were removed in the future.

*(Natural Resources Commission; 312 IAC 26-4-9; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1281; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

**312 IAC 26-4-10 Professional standards for historic preservation projects involving restoration**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8; IC 14-21-1

Sec. 10. The following standards apply if a project under this rule involves restoration:

- (1) Every reasonable effort shall be made to use a property for its originally intended purpose or to provide a compatible use that will require minimum alteration to the property and its environment.
- (2) Reinforcement required for structural stability or the installation of protective or mechanical systems shall be designed and placed, if practicable, so as not to intrude upon or detract from the aesthetic and historical quality of the property.
- (3) If archaeological resources are disturbed during restoration, the recovery of archaeological material shall be undertaken in conformance with current professional practices.

*(Natural Resources Commission; 312 IAC 26-4-10; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1282; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-4-11 Grant application for historic preservation**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 11. A municipal corporation or corporation that has no affiliation with religion must complete a written application in a narrative form that includes the following:

- (1) An application completed on a form approved by the commission.
- (2) A project description that sets forth the following:
  - (A) A description of the type of project that is proposed.
  - (B) The specific work items that are proposed and a brief explanation how each will be accomplished.
  - (C) A discussion of the current use of the property and how the property will be used after completion of the project.
- (3) Photographs developed to illustrate the need for the project.
- (4) The amount of the proposed project with a statement that shows all major expense categories. The documentation should indicate the amount of the grant request plus the matching share.
- (5) A description of the source, type, and amount of the matching share contributions. This description must contain assurances that at least fifty percent (50%) of the cost of the proposed project will be satisfied through public or private funds, labor, or property provided through the applicant.
- (6) An analysis of each item set forth in section 12 of this rule with respect to the ratings of applications.
- (7) Completion of a statement of assurances as set forth in 312 IAC 26-2-3(b).

*(Natural Resources Commission; 312 IAC 26-4-11; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1282; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-4-12 Ratings of applications**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 12. (a) An application for a grant made under this rule is evaluated according to ratings established by this section.

(b) The project application ratings criteria set forth in this subsection apply. The rating given to each project is determined by the extent to which the project accomplishes the purposes set forth in these criteria. A project receives a higher rating to the extent the project fulfills one (1) or more of the following:

- (1) Demonstrate feasibility in technological and practical terms.
- (2) Preserve a property that is currently endangered.



- (3) Preserve a property that is currently vacant or partially vacant.
- (4) Preserve a property that has extraordinary architectural or historical significance.
- (5) Assist local community revitalization efforts.
- (6) Benefit minorities.
- (7) Provide access for handicapped persons.
- (8) Provide training in an unusual skill or craft often needed in preservation projects.
- (9) Not cause the relocation of people.
- (10) Implement a project for which there is significant local support.
- (11) Implement a project for which architectural plans, that meet preservation standards, are already completed.
- (12) Implement a project that the applicant has demonstrated a sufficient financial capability to complete.
- (13) Be administered by an applicant who has a staff person (either paid or volunteer) who works at least twenty (20) hours per week for the applicant.
- (14) Be administered by an applicant who has successfully completed an historic preservation project within the last three (3) years.
- (15) Include less than twenty percent (20%) of the local match through volunteer labor.
- (16) Be administered by an applicant who has not previously received a grant through the division of historic preservation and archeology of the department.
- (17) Apply to a property that has not previously benefited from a grant through the division of historic preservation and archeology.
- (18) Apply to a project to the extent that more than fifty percent (50%) of the costs are provided by the applicant.
- (19) Result in the distribution of funds under this rule throughout the state.

*(Natural Resources Commission; 312 IAC 26-4-12; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1282; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

## **Rule 5. Community Forestry Grants**

### **312 IAC 26-5-1 Administration of community forestry grants**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 1. (a) This rule governs the grant of any project involving community forestry.

(b) This rule is administered by the division of forestry of the department. *(Natural Resources Commission; 312 IAC 26-5-1; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1283; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

### **312 IAC 26-5-2 General eligibility requirements**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 2. To be eligible to receive a grant for a project involving community forestry, the following conditions must be met:

- (1) The applicant must be a municipal corporation or a corporation that has no affiliation with religion.
- (2) The land involved in the project must be on land owned or controlled by the municipal corporation.
- (3) The applicant must demonstrate that there are adequate provisions to maintain the completed project.

(4) The applicant must satisfy this article.  
*(Natural Resources Commission; 312 IAC 26-5-2; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1283; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

**312 IAC 26-5-3 Priority of project types eligible for community forestry grants**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 3. (a) Project types that meet the eligibility requirements for a community forestry grant as set forth in section 2 of this rule are given funding priorities as set forth in this section.

(b) An applicant may propose a project or combination of projects to enhance the urban forest in a community or on a statewide basis. Priority is placed on projects that emphasize the development of a long term comprehensive, community forest program.

(c) The following projects are priority projects, listed in descending order from highest to least priority, to suggest what activities have priority for a community forestry program grant under this rule:

- (1) Organize and fund an urban forestry committee or board.
- (2) Develop informational events or publications to raise public awareness.
- (3) Sponsor education and training programs.
- (4) Undertake a sample or detailed tree inventory.
- (5) Draft a public tree ordinance.
- (6) Prepare a community forest management plan.
- (7) Prepare guidelines for tree planting, maintenance, and removal.
- (8) Planting trees on public lands.
- (9) Employ or contract with an urban forester or other consultant to assist with urban forest management projects.
- (10) Promote ways to manage and protect urban natural resources, including wildlife, soils, and water.
- (11) Develop plans for urban wood waste recycling programs.
- (12) Implement another project that improves planting, protection, and care of urban trees.
- (13) Maintaining trees on public lands. The cost of maintenance cannot exceed twenty-five percent (25%) of the grant amount.

*(Natural Resources Commission; 312 IAC 26-5-3; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1283; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

**312 IAC 26-5-4 Projects ineligible for community forestry grants**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 4. (a) A project that might otherwise meet the general eligibility requirements under section 2 of this rule is ineligible under this rule for a grant if listed under subsection (b).

(b) A project is ineligible that proposes to use funds for the following:

- (1) Street tree maintenance, except as authorized in section 3 of this rule.
- (2) Street tree removal, except as an incidental function of a project listed in section 3 of this rule.
- (3) Purchasing equipment that exceeds one hundred fifty dollars (\$150) for each item. This equipment must be set aside for use on the community forestry program.
- (4) Equipment maintenance.
- (5) Administration, operation, and maintenance that is not directly related to and caused by the grant project.

(6) Land acquisition.

(7) A planting project in a public park, except where the planting will enhance walkways, roads, or other public lands.

*(Natural Resources Commission; 312 IAC 26-5-4; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1283; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

**312 IAC 26-5-5 Rating applications for community forestry grants**

Authority: IC 14-12-3-12; IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 5. (a) Grant applications are evaluated by the division of forestry with reference to the factors set forth in subsection (b).

(b) The following factors are considered in rating grant applications for community forestry:

(1) The priority given to the project type under section 3(c) of this rule.

(2) The need for the project in the area served, including economic benefits.

(3) The extent of public support for the project, as evidenced by public meetings, surveys, and correspondence.

(4) The compatibility of the project with other facilities. Items considered within this subdivision include the locations of existing and planned:

(A) roads;

(B) utility lines;

(C) pipelines;

(D) sidewalks; and

(E) buildings.

(5) Whether the applicant has received previous grants under this article or another law providing similar benefits. An applicant who has not previously received funding receives a higher priority than an applicant who has.

(6) Whether the project will benefit a large number of individuals as opposed to a small number of individuals.

(7) The history of an applicant in processing prior grants. Consideration is given to whether or not previous grants have been administered effectively, efficiently, and according to standards established by the entity providing the grant.

(8) The likely duration of benefits derived from the project.

(9) Whether the project is well-planned.

(10) Whether the budget is well-planned and cost-effective.

(11) Whether the applicant is providing cash as part of the match.

(12) Whether the applicant has the experience and resources needed to efficiently complete the project.

*(Natural Resources Commission; 312 IAC 26-5-5; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1283; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

**312 IAC 26-5-6 Grant application for community forestry**

Authority: IC 14-12-3-13

Affected: IC 14-12-3-8

Sec. 6. A municipal corporation or a corporation that has no affiliation with religion that seeks a grant under this rule must complete a written application in a narrative form that includes the following:

(1) An application completed on a form approved by the commission.

(2) A project description that addresses each item listed in section 5(b) of this rule.

- (3) The amount of the proposed project and assurances that at least fifty percent (50%) of the cost of the proposed project will be satisfied through public or private funds, labor, or property. Documentation should be included that shows the estimated costs for each part of the project and a written proposal for any work to be performed by a contractor.
  - (4) A statement from an authorized official, representing the applicant, that certifies the availability of local funding for the project.
  - (5) With respect to a project that involves the purchase or planting of nursery stock that exceeds the value of two hundred dollars (\$200), the application must include the following:
    - (A) Documentation showing control of the property through public ownership or an easement. Control of the property must extend through the life of the planting as predicted by the division of forestry of the department.
    - (B) The plan must be prepared by a qualified professional, such as a landscape architect, forester, or horticulturist.
    - (C) A public tree ordinance or a written tree care guideline manual that covers the tree planting area and is authorized by the governing body of the applicant. The ordinance or manual should specify who is responsible for the planting and maintenance of public trees and provide standards for tree planting, protection, and maintenance.
- (Natural Resources Commission; 312 IAC 26-5-6; filed Dec 3, 1997, 3:45 p.m.: 21 IR 1284; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*